



DOCKET FILE COPY ORIGINAL

Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

1400 S Evergreen Park Drive SW • PO Box 40128 • Olympia WA 98504-0128 • (360) 664-1183

September 16, 1999

RECEIVED

SEP 17 1999

FCC MAIL ROOM

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street NW, Room 222
Washington, D.C. 20554

RE: In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services, FCC 99-137, WT Docket 97-207

Dear Ms. Salas:

Pursuant to the Federal Communications Commission's Public Notice in the above referenced proceeding, enclosed for filing are an original and four copies of the Comments of the Washington Utilities and Transportation Commission. This was posted to the Internet on September 16, 1999.

Please contact Tom Wilson at (360)-664-1293, tomw@wutc.wa.gov, if you have any questions about this filing.

Sincerely,

GREGORY J. TRAUTMAN
Assistant Attorney General

GJT:kl
Enclosures

No. of Copies rec'd 074
List ABCDE

RECEIVED
SEP 17 1999
FCC MAIL ROOM

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

FCC 99-137

In the Matter of)
)
Calling Party Pays Service Offering)
in the Commercial Mobile Radio Services)

WT Docket No. 97-207

**COMMENTS OF
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

Washington Utilities & Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504
(360) 664-1293

Introduction

The Washington Utilities and Transportation Commission (WUTC) submits the following comments in response to the Declaratory Ruling and Notice of Proposed Rulemaking (NPR) adopted by the Federal Communications Commission (FCC) regarding Calling Party Pays (CPP).

- The WUTC supports the FCC's conclusion that some effective form of calling party notification is critically important to protect consumers. The FCC should lead the implementation of a uniform notification system that clearly details terms, rates, and conditions of the call, and gives the caller the option to terminate the call before charges are incurred.
- The WUTC would not support any moves by the FCC to regulate billing and collection services. Nor should the FCC limit a state's ability to regulate those services. Specifically, to keep any LEC from getting a competitive advantage over other billing and collection providers, and to protect consumers, the states must retain the ability to prohibit the LECs from cutting off local telephone service for non-payment of CPP charges.

State Experience

Calling Party Pays has been available in Washington State since January 1996 when US WEST Communications, Inc., (USWC) requested and was granted authority to provide the billing and collection service necessary for wireless companies to provide CPP. State law limits the level of

review that the WUTC conducts on competitive services, such as billing and collection, and does not permit regulation of Commercial Mobile Radio Services (CMRS). As such, the WUTC did not have sufficient authority to establish the type of consumer protection it might otherwise have imposed had the service been provided under the WUTC's direct regulatory authority.

Currently, in Washington State, callers know they are calling a CPP subscriber because they must dial a 1 followed by a seven-digit number beginning with one of several designated NXX codes, and they hear a recorded message indicating that they will be charged if they choose to complete the call. Consumers, however, have no indication of the rate they will be charged if they choose to complete the call.

Dialing 1 and specified NXX codes are insufficient in themselves to warn callers that they will incur a charge. Combined with the recorded message, though, there is adequate notice to Washington State callers that there will be a charge. The charge, however, could be substantially higher than usual toll calls, and because there is no specific rate information provided, the caller cannot make an informed decision about whether to continue with the call.

Currently in Washington State, local telephone companies may not disconnect local service to customers who fail to pay for any non-regulated service, such as CPP charges see (WAC 480-120-081). This is vital for two reasons. First, it prevents any LEC that also acts as a billing and collection provider from having a competitive advantage over other billing and collection providers, who cannot use the threat of local phone disconnection to induce payment of bills.

Second, it protects consumers' access to basic phone service. This access to basic service far outweighs any convenience or benefit the wireless company and the customer may enjoy as a result of using the phone bill to charge for other services.

Recommendations

1) The FCC should lead the implementation of a uniform notification system that clearly details terms, rates, and conditions of the call, and gives the caller the option to terminate the call before charges are incurred.

The WUTC confirms its support for a uniform nationwide notification system to facilitate the implementation of CPP. We applaud the FCC for its finding that a uniform system would give callers the ability to make informed decisions about whether to proceed with completing a call (NPR paragraphs 32 and 33). The WUTC recommends that the FCC take steps that would lead to the design and implementation of such a uniform system.

While the FCC can best facilitate the implementation of the uniform system necessary to limit consumer confusion, the FCC should not curtail any state's ability to take further steps to protect its consumers (NPR paragraph 39). The FCC should consider any notification standards it implements as minimum notification standards.

The WUTC agrees with the FCC that while special numbering systems may help some consumers know when they will be charged for a call, special numbers are in no way an adequate replacement to a thorough notification system (NPR paragraph 48). Special numbering systems,

by themselves, provide virtually no protection against unintended charges, and they apparently are an inconvenience to the wireless carrier and its customers. Moreover, they needlessly consume the finite resource of telephone numbers.

The WUTC strongly reaffirms its support for a notification system for CPP consisting of a verbal message provided by the CMRS provider to the calling party as outlined in paragraph 42 of the NPR. The message should: (1) Indicate that the caller will be responsible for payment of airtime charges; (2) Identify the CMRS provider; (3) Indicate the rate that the caller will be charged; and (4) Notify the caller of the opportunity to terminate the call prior to incurring any charges.

The WUTC does not believe that such a notification system should only be implemented on a temporary basis, as suggested by the Cellular Telecommunications Industry Association (CTIA) (NPR paragraph 44) and any streamlined notification system should retain the same essential elements. The WUTC does not oppose giving customers a mechanism to bypass the message, comparable to the “#” key in many voice messaging systems.

2) The WUTC recommends that the FCC take no action to impose further regulation on billing and collection services provided by LECs, and not supersede state efforts in that regard.

The FCC should not require that LECs provide billing and collection services to support CPP (NPR paragraph 56). Billing and collection services are considered to be competitive because there are readily available alternatives to billing through a LEC. To ensure continued competition the different providers of billing and collection services should be treated in a

nondiscriminatory manner. Requiring LECs to provide specific billing and collection services would place a burden on LECs that other billing and collection service providers do not face.

Further, nothing that the FCC does should interfere with the ability of states to regulate billing and collection providers in order to ensure competition and to protect consumers. Specifically, states should not be preempted from maintaining the ability to prohibit a LEC from disconnecting local service for nonpayment of any competitive services for which the LEC provides billing and collection services. First, this ensures competition because no billing and collection provider can offer a service superior to any other provider's service. Second, this protects a consumer's right of access to local telephone service.

Conclusion

The WUTC applauds the FCC for its commitment to a uniform and thorough notification system for CPP. The WUTC recommends that such a system be implemented nationwide.

The WUTC also recommends that the FCC take no action to regulate billing and collection services, and take no action that would inhibit the states' abilities to ensure competition and consumer protection with regard to those services.

The Washington Utilities and Transportation Commission looks forward to further participation and opportunity to comment on these matters before the FCC.

DATED at Olympia, Washington, and effective this 14th day of September, 1999.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



MARILYN SHOWALTER, Chairwoman



WILLIAM R. GILLIS, Commissioner

Washington Utilities & Transportation Commission

1300 South Evergreen Park Drive SW

Olympia, WA 98504

(360) 664-1293